

SEP 24 2004

## FAX TRANSMISSION

**DATE:** September 24, 2004

**PTO IDENTIFIER:** Application Number 09/777,225  
Patent Number

**Inventor:** Havekost, et al.

**MESSAGE TO:** US Patent and Trademark Office

**FAX NUMBER:** (703) 872-9306

**FROM:** MARSHALL, GERSTEIN & BORUN LLP

Gregory E. Stanton

**PHONE:** (312) 474-6610

**Attorney Dkt. #:** 06005/35530

**PAGES (Including Cover Sheet):** 5

**CONTENTS:** Notice of Appeal (1 page) 2 copies  
Transmittal (1 page)  
Fee Transmittal (1 page)

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**MARSHALL, GERSTEIN & BORUN LLP**  
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SEP 24 2004

PTO/SB/31 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES</b>		Docket Number (Optional) <b>06005/35530</b>
In re Application of <b>Robert B. Havekost</b>		
Application Number <b>09/777,225-Conf. #1536</b>		Filed <b>February 5, 2001</b>
For <b>HIERARCHICAL FAILURE MANAGEMENT FOR PROCESS CONTROL SYSTEMS</b>		
Art Unit <b>2113</b>		Examiner <b>C. S. McCarthy</b>

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 41.20(b)(1)) \$ 330.00

☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: \$ \_\_\_\_\_

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 13-2855. I have enclosed a duplicate copy of this sheet.

☐ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.


I am the

☐ applicant /inventor.

☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

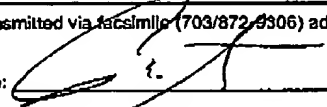
☐ attorney or agent of record.  
Registration number \_\_\_\_\_

☒ attorney or agent acting under 37 CFR 1.34.  
Registration number if acting under 37 CFR 1.34. 45,127

  
 \_\_\_\_\_  
 Signature  
**Gregory E. Stanton**  
 Typed or printed name  
 \_\_\_\_\_  
**(312) 474-6300**  
 Telephone number  
**September 24, 2004**  
 Date

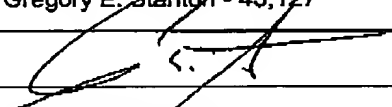
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

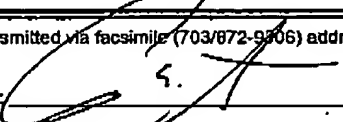
☐ \*Total of \_\_\_\_\_ forms are submitted.

I hereby certify that this correspondence is being transmitted via facsimile (703/872-9306) addressed to: Commissioner of Patents, MS AF, on the date shown below.	
Dated: September 24, 2004	Signature:  (Gregory E. Stanton)

<h2 style="margin: 0;">TRANSMITTAL FORM</h2> <p style="margin: 5px 0 0 40px;">(to be used for all correspondence after initial filing)</p>		Application Number	09/777,225-Conf. #1536
		Filing Date	February 5, 2001
		First Named Inventor	Robert B. Havekost
		Art Unit	2113
		Examiner Name	C. S. McCarthy
Total Number of Pages in This Submission	4	Attorney Docket Number	06005/35530

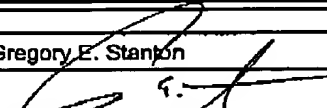
ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
<div style="display: flex; justify-content: space-between;"> <div style="width: 20%;">Remarks</div> <div> <p>Applicants do not believe that an extension of time is required for the reasons set forth in the response filed by Applicants on September 23, 2004. If an extension of time is required, however, please consider the response filed by Applicants on September 23, 2004 as a request for the required extension of time as well as authorization to charge the referenced deposit account for the required fee.</p> </div> </div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	MARSHALL, GERSTEIN & BORUN LLP Gregory E. Stanton - 45,127
Signature	
Date	September 24, 2004

I hereby certify that this correspondence is being transmitted via facsimile (703/672-9506) addressed to: Commissioner of Patents, MS AP, on the date shown below.	
Dated: September 24, 2004	Signature:  (Gregory E. Stanton)

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PTO/SB/17 (10-03)  
Approved for use through 7/31/2008. OMB 0651-0032  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

<b>FEE TRANSMITTAL for FY 2004</b>				<b>Complete If Known</b>																																																																																																																																																																																					
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<input type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> Other <input type="checkbox"/> None <input checked="" type="checkbox"/> Deposit Account: Deposit Account Number: 13-2855 Deposit Account Name: MARSHALL, GERSTEIN & BORUN LLP The Director is authorized to: (check all that apply) <input checked="" type="checkbox"/> Charge fee(s) indicated below <input checked="" type="checkbox"/> Credit any overpayments <input checked="" type="checkbox"/> Charge any additional fee(s) or any underpayment of fee(s) <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.				<b>3. ADDITIONAL FEES</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2">Large Entity</th> <th colspan="2">Small Entity</th> <th rowspan="2">Fee Description</th> <th rowspan="2">Fee Paid</th> </tr> <tr> <th>Fee Code</th> <th>Fee (\$)</th> <th>Fee Code</th> <th>Fee (\$)</th> </tr> </thead> <tbody> <tr><td>1051</td><td>130</td><td>2051</td><td>65</td><td>Surcharge - late filing fee or oath</td><td></td></tr> <tr><td>1052</td><td>50</td><td>2052</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet</td><td></td></tr> <tr><td>1053</td><td>130</td><td>1053</td><td>130</td><td>Non-English specification</td><td></td></tr> <tr><td>1812</td><td>2,520</td><td>1812</td><td>2,520</td><td>For filing a request for ex parte reexamination</td><td></td></tr> <tr><td>1804</td><td>920*</td><td>1804</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td><td></td></tr> <tr><td>1805</td><td>1,840*</td><td>1805</td><td>1,840*</td><td>Requesting publication of SIR after Examiner action</td><td></td></tr> <tr><td>1251</td><td>110</td><td>2251</td><td>55</td><td>Extension for reply within first month</td><td></td></tr> <tr><td>1252</td><td>420</td><td>2252</td><td>210</td><td>Extension for reply within second month</td><td></td></tr> <tr><td>1253</td><td>650</td><td>2253</td><td>475</td><td>Extension for reply within third month</td><td></td></tr> <tr><td>1254</td><td>1,480</td><td>2254</td><td>740</td><td>Extension for reply within fourth month</td><td></td></tr> <tr><td>1255</td><td>2,010</td><td>2255</td><td>1,005</td><td>Extension for reply within fifth month</td><td></td></tr> <tr><td>1401</td><td>330</td><td>2401</td><td>165</td><td>Notice of Appeal</td><td>330.00</td></tr> <tr><td>1402</td><td>330</td><td>2402</td><td>165</td><td>Filing a brief in support of an appeal</td><td></td></tr> <tr><td>1403</td><td>280</td><td>2403</td><td>145</td><td>Request for oral hearing</td><td></td></tr> <tr><td>1451</td><td>1,510</td><td>1451</td><td>1,510</td><td>Petition to institute a public use proceeding</td><td></td></tr> <tr><td>1452</td><td>110</td><td>2452</td><td>55</td><td>Petition to revive - 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1205	18	2205	9	** Reissue claims in excess of 20 and over original patent																																																																																																																																																																																					
<b>SUBTOTAL (1)</b> (\$) <b>0.00</b> <b>SUBTOTAL (2)</b> (\$) <b>0.00</b> **or number previously paid, if greater; For Reissues, see above																																																																																																																																																																																									
<b>SUBMITTED BY</b> Name (Print/Type): Gregory E. Stanton Signature:  Registration No. (Attorney/Agent): 45,127 Telephone: (312) 474-6300 Date: September 24, 2004				(Complete if applicable)																																																																																																																																																																																					

I hereby certify that this correspondence is being transmitted via facsimile (703/872-8300) addressed to: Commissioner of Patents, MS AF, on the date shown below.

Dated: September 24, 2004

Signature:  (Gregory E. Stanton)